

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Brian Morrison

(b) County of Residence of First Listed Plaintiff Pennsylvania  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Gay Chacker & Mittin, P.C., 1731 Spring Garden St  
Philadelphia, PA

## DEFENDANTS

City of Philadelphia Police  
Sergeant Massi, and City of Philadelphia Police  
Officer, John Doe  
County of Residence of First Listed Defendant Pennsylvania  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

- (Place an "X" in One Box Only)  
☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C.S 1983

Brief description of cause:

Excessive force, False arrest/imprisonment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1221 S. 21st Street, Philadelphia, PA 19146

Address of Defendant: 1515 Arch Street, 14th, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: 18th & Washington Avenue, Philadelphia, PA  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases  
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/6/12

Attorney-at-Law

Attorney I.D.#



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Brian Morrison

v.

City of Philadelphia Police Sergeant Massi and  
City of Philadelphia Police Officer, John Doe

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

Date

215-567-7955

Telephone

Attorney-at-law

215-567-6809

FAX Number

Plaintiff, Brian Morrison

Attorney for

bchacker@gaychackermittin.net

E-Mail Address

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**BRIAN MORRISON**

**V.**

**CITY OF PHILADELPHIA**

**POLICE SERGEANT MASSI**

**Individually and as a Police Sergeant  
for the City of Philadelphia;**

**and**

**CITY OF PHILADELPHIA**

**POLICE OFFICER, JOHN DOE**

**Individually and as a Police Officer  
For the City of Philadelphia**

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**JURY TRIAL DEMANDED**

**Civil Action No. \_\_\_\_\_**

**COMPLAINT**

Plaintiff Brian Morrison, (“Mr. Morrison” or “plaintiff”), by and through his attorneys, Gay Chacker & Mittin, P.C., hereby asserts the following Complaint against defendants, City of Philadelphia Police Sergeant Massi (“defendant Massi”), Police Officer John Doe, (“defendant Doe”), (collectively “defendants”), as follows:

**Parties**

1. Plaintiff is and was at all material times a resident of Philadelphia, Pennsylvania.
2. Defendant Police Sergeant Massi was at all times relevant to this action a sergeant of the City of Philadelphia Police Department. He is being sued in his individual capacity as a police officer for the City of Philadelphia.
3. Defendant Police Officer John Doe was at all times relevant to this action an officer of the City of Philadelphia Police Department. He is being sued in his individual capacity as a police officer for the City of Philadelphia.

**Jurisdiction**

4. This action is brought pursuant to 42 United States Code Section 1983. Jurisdiction is based upon 28 United States Code 1331 and 1343. Plaintiff further invokes the supplemental jurisdiction under 28 United States Code Section 1376(a) to hear and decide claims under state law.

**Facts**

5. On January 21, 2010, Mr. Morrison and his father, a retired Septa Police Officer were coming from the Laundromat at 18<sup>th</sup> & Washington and proceeded to walk to his vehicle which was parked on Washington Avenue west of 18<sup>th</sup> Street at approximately 12:30 p.m.

6. Once Mr. Morrison was in his vehicle, he looked out his rear view mirror and saw three vehicles stopped at the intersection behind him for a red light.

7. Mr. Morrison proceeded to pull out of his parking spot with caution.

8. Suddenly, Mr. Morrison had to slam on his brakes because the first vehicle sped off and almost ran into his vehicle.

9. Mr. Morrison and the driver of the other vehicle engaged in a verbal argument.

10. There was a police patrol car in a position to witness the entire incident.

11. Upon information and belief, defendant Massi and defendant Doe (collectively “defendants”) were the officers in the patrol vehicle.

12. After the argument began, defendants pulled in front of Mr. Morrison and the other vehicle.

13. The defendants spoke with the driver of the other vehicle, who was Caucasian and allowed him to leave the scene.

14. As the defendants spoke with the other driver, Mr. Morrison, who is African American, began to exit his vehicle, but was instructed by the defendants to get back in his

vehicle and turn it off.

15. After allowing the other, Caucasian driver to leave, the defendants approached Mr. Morrison and his father and, without provocation or basis in law, grabbed Mr. Morrison by his jacket, yanked him out of his vehicle, handcuffed him.

16. At no point in time was Mr. Morrison advised that he had committed any crime or why he had been forcibly removed from the vehicle.

17. Mr. Morrison told the police officers that the handcuffs were too tight and inquired why he had been treated the way he had been. The defendants told him "this is what happens when you resist arrest".

18. It was not until Mr. Morrison's father explained that he was a retired police officer that the defendants removed the handcuffs and told Mr. Morrison to leave the scene.

19. Mr. Morrison never violated any law of the Commonwealth of Pennsylvania and never was charged with any crime.

20. As a direct and proximate result of the actions or inactions of the defendants, Mr. Morrison's forearm was swollen and in pain.

21. Mr. Morrison continues to suffer from anxiety, fear, and mental harm.

22. As a direct and proximate result of the defendants' actions, Mr. Morrison was deprived of rights, privileges and immunities under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution and in particular the right, the right to be free from false arrest and the right to due process of law.

23. The actions and/or inactions of the defendants violated the clearly established federal constitutional rights of Mr. Morrison to freedom from use of unreasonable and unjustified force against his person, the right to be free from false arrest/false imprisonment and the right to

due process of law.

**COUNT ONE**

**42 U.S.C. § 1983 Against Individual Defendants City of Philadelphia  
Police Sergeant, Massi and City of Philadelphia Police Officer John Doe**

24. Plaintiff hereby incorporates the allegations contained in paragraphs 1 through 24, inclusive, of his Complaint as if the same were set forth at length herein.

25. Plaintiff claims damages for the injuries set forth above under 42 U.S.C. Section 1983 against the defendant police officers for violation of Mr. Morrison's constitutional rights under color of law.

26. As aforesaid, defendants, acting within the course and scope of the City of Philadelphia employment, under color of state law, and pursuant to the customs, policies and practices of the City of Philadelphia Police Department intentionally and maliciously pulled Mr. Morrison from his vehicle and tightly handcuffed him; deprived Mr. Cortes of his rights, privileges and immunities under the Constitution of the United States and the laws of the United States; in particular, the right to be free from excessive use of force by an officer; which violated Mr. Morrison's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the laws of the United States, and were in violation of 42 U.S.C. Section 1983.

27. The defendants within the course and scope of their employment, under color of state law, and pursuant to the customs, policies and practices of their respective City of Philadelphia Police Department intentionally and maliciously assaulted and battered Mr. Morrison, and used their positions of authority illegally and improperly to punish Mr. Morrison as set forth above which violated Mr. Cortes' rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the laws of the United States, and were in violation of 42 U.S.C. Section 1983.

28. The defendants have been deliberately indifferent to the rights of citizens of the Commonwealth of Pennsylvania and, in particular, City of Philadelphia to be free from excessive force, which deliberate indifference violated Mr. Morrison's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the laws of the United States, and were in violation of 42 U.S.C. Section 1983.

29. The defendants invaded the privacy and/or cast Mr. Morrison in a false light by making it appear to others that Mr. Morrison had violated or was violating the laws of the Commonwealth of Pennsylvania or of another jurisdiction.

30. As a result of the above actions, Mr. Morrison suffered the damages as aforesaid.

31. The actions of defendants were so malicious, intentional and reckless, and displayed such a reckless indifference to Mr. Morrison's rights and well being that the imposition of punitive damages is warranted.

WHEREFORE, plaintiff, Brian Morrison, II, demands judgment in his favor and against the defendants, for compensatory damages, punitive damages, reasonable attorney fees and costs, interest; and such other and further relief as appears reasonable and just.

## **COUNT TWO**

### **42 U.S.C. § 1983 Against Individual Defendants City of Philadelphia Police Sergeant, Massi and City of Philadelphia Police Officer John Doe**

32. Plaintiff hereby incorporates the allegations contained in paragraphs 1 through 31, inclusive, of his Complaint as if the same were set forth at length herein.

33. Plaintiff claims damages for the injuries set forth above under 42 U.S.C. Section 1983 against the defendant police officers for violation of Mr. Morrison's constitutional rights under color of law.

34. As aforesaid, defendants, acting within the course and scope of the City of



Philadelphia employment, under color of state law, and pursuant to the customs, policies and practices of the City of Philadelphia Police Department, intentionally and maliciously, falsely arrested and imprisoned Mr. Morrison when they pulled him from his vehicle and tightly handcuffed him, depriving Mr. Morrison of his rights, privileges and immunities under the Constitution of the United States and the laws of the United States; in particular, the right to be free from excessive use of force by an officer; which violated Mr. Morrison's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the laws of the United States, and were in violation of 42 U.S.C. Section 1983.

35. The defendants within the course and scope of their employment, under color of state law, and pursuant to the customs, policies and practices of their respective City of Philadelphia Police Department, intentionally and maliciously, falsely arrested and falsely imprisoned Mr. Morrison, and used their positions of authority illegally and improperly to punish Mr. Morrison as set forth above which violated Mr. Morrison's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the laws of the United States, and were in violation of 42 U.S.C. Section 1983.

36. The defendants have been deliberately indifferent to the rights of citizens of the Commonwealth of Pennsylvania and, in particular, City of Philadelphia to be free from false arrest and false imprisonment, which with deliberate indifference violated Mr. Morrison's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States, the laws of the United States, and were in violation of 42 U.S.C. Section 1983.

37. The defendants invaded the privacy and/or cast Mr. Morrison in a false light by making it appear to others that Mr. Morrison had violated or was violating the laws of the Commonwealth of Pennsylvania or of another jurisdiction.

38. As a result of the above actions, Mr. Morrison suffered the damages as aforesaid.

39. The actions of defendants were so malicious, intentional and reckless, and displayed such a reckless indifference to Mr. Morrison's rights and well being that the imposition of punitive damages is warranted.

WHEREFORE, plaintiff, Brian Morrison, II, demands judgment in his favor and against the defendants, for compensatory damages, punitive damages, reasonable attorney fees and costs, interest; and such other and further relief as appears reasonable and just.

BSC5184

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**Attorneys for Plaintiff  
Brian Morrison**

Date: January 6, 2012